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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,636

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Goran Sundholm

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03/06/2008

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EXAMINER

GORMAN, DARREN W

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

03/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,636	<b>Applicant(s)</b> SUNDHOLM ET AL.	
	<b>Examiner</b> Darren W. Gorman	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 11-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Litsch et al., German Patent Publication No. DE 3444486.

Litsch (see Figure 1) shows a fire extinguishing spray head comprising: a fire extinguishing medium flow passage (10); a burst disk (15) arranged in the passage, which, when unbroken, blocks the passage of the medium flow from a first upstream side of the burst disk to a second downstream side of the burst disk, wherein on the first upstream side of the burst disk a first pressure prevails, and on the second downstream side a second pressure prevails, the burst disk arranged to be ruptured so that a medium flow passage is formed through the burst disk when a pressure difference between the first and the second sides of the burst disk reaches a preset value. Litsch further shows the spray head comprising a supporting element (17) provided on the second downstream side of the burst disk where the pressure of the medium is lower at least just before the instant of rupture of the burst disk, wherein the supporting element can be moved between at least two positions, a first position where the supporting element supports the burst disk so that the burst disk cannot be ruptured (as shown in Figure 1), and a second position (shown in phantom in Figure 1) where the supporting element does not support the burst disk.

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Still further, Litsch shows the spray head comprising a means for locking (19, 23, 24, 29, 30, 31) the supporting element in the first position, and a means for releasing (19, 23, 24, 29, 30, 31) the supporting element from the first position, the means for locking and releasing the supporting element comprising a heat sensitive element (31).

***Allowable Subject Matter***

3. Claims 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments, see pages 5-6 of the "Remarks" section of the response filed January 15, 2008, with respect to German Patent Publication No. DE 3444486 to Litsch et al., have been fully considered but they are not persuasive.

Applicant essentially asserts that the apparatus shown by Litsch cannot reasonably read on the claimed invention, which is now amended in the claim preamble as being "In apparatus of a spray head" (claim 1). Applicant's assertion is based on the idea that the device of Litsch is mounted on the outlet/exit end of a fire extinguisher and controls dispensation of fire extinguishing material from the fire extinguisher, and thus cannot reasonably read on a "spray head". It is the Examiner's position that the mere fact the device of Litsch controls dispensation of fire extinguishing material from a fire extinguisher cylinder is enough for the device to be called a "spray head", since the device is mounted on the extinguisher at a location that would

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reasonably be considered the "head" of the extinguisher, and since the device, when actuated, permits "spraying" of the released fire extinguishing material to the ambient atmosphere.

Applicants further assertions, such as "spray heads and fire extinguishers...are not the same in operation", and "the exit valve in DE 3444486 comprises mechanically very complicated arrangements" are irrelevant and not commensurate with the claims presented. It is noted that Applicant's arguments do not traverse the Examiner's application of the features shown by Litsch against the recited features in the body of claims 1-7, 9 and 10, thus the Examiner assumes, with the exception of the above-discussed "spray head" recitation in the preamble, that Applicant agrees with the anticipation of the claimed device as currently of record. It should therefore also be noted that recitations in the preamble of a claim are denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W Gorman/  
Primary Examiner, Art Unit 3752

/D. W. G./  
Primary Examiner, Art Unit 3752